

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

OLD DOMINION FREIGHT LINE, INC.,)
Plaintiff,)
v.) CASE No. 1:18-CV-882
ROBERTSHAW CONTROLS COMPANY, and,)
ROBERTSHAW CONTROLS COMPANY, d/b/a)
ROBERTSHAW UNILINE, USA)
Defendant.)

COMPLAINT

Plaintiff Old Dominion Freight Line, Inc. (“Old Dominion”), through counsel and for its Complaint against Defendant Robertshaw Controls Company (“Robertshaw”), alleges as follows:

Jurisdiction and Venue

1. This is an action for the collection of freight charges due and owing under the tariffs of a federally regulated motor carrier, Old Dominion, the provisions of the Interstate Commerce Act, 49 U.S.C. §§10101 *et seq.*, and the federal regulations of the U.S. Department of Transportation, Surface Transportation Board.

2. Old Dominion is a Virginia corporation with its principal place of business in Thomasville, North Carolina. Old Dominion is a corporation qualified and authorized lawfully to transport freight as a for-hire motor carrier in intrastate, interstate, and foreign commerce between points and places in North America, and to provide transportation services.

3. Upon information and belief, Robertshaw is a Delaware corporation with its principal place of business in the State of Illinois. Robertshaw sometimes does business as “Robertshaw Uniline, USA”.

4. Robertshaw transacts business in and maintains at least minimum contacts with the State of North Carolina. Without limitation, Robertshaw is engaged in substantial activity in this State through the sale and delivery of goods to customers in this State. Additionally, this action arises, in part, from Robertshaw’s promise to Old Dominion to pay for freight transportation services provided by Old Dominion to or for the benefit of Robertshaw in the State of North Carolina and from Old Dominion’s delivery of Robertshaw’s freight to destinations in the State of North Carolina at Robertshaw’s order and direction. Further, Robertshaw consented to jurisdiction in the State of North Carolina and agreed that this District was the exclusive venue for the resolution of any disputes between the parties, as more fully provided in this Complaint. This Court therefore has jurisdiction over Robertshaw.

5. This Court has subject matter jurisdiction of this action pursuant to 28 U.S.C. §1331 and §1337. This Court also has jurisdiction pursuant to 28 U.S.C. §1332. The amount in controversy exceeds \$75,000.00, exclusive of interest and costs, and Old Dominion and Robertshaw are citizens of different states.

6. Venue is proper in this Court pursuant to 28 U.S.C. §1391(c).

Factual Allegations

7. Old Dominion has provided motor carrier transportation services for Robertshaw, as shipper, between August 19, 2016, and June 22, 2018, including transportation services for interstate shipments moving to points within this State (the “Transportation Services”).

8. The freight charges for the Transportation Services, including liquidated damages, total \$164,274.81 (the “Freight Charges”). A statement of account for the Freight Charges is attached to this Complaint and incorporated by reference as **Exhibit A**.

9. The Transportation Services represented by **Exhibit A** were provided to or for the benefit of Robertshaw pursuant to Bills of Lading (the “Bills of Lading”) identifying Old Dominion as the carrier and Robertshaw as the shipper.

10. The Bills of Lading incorporate Old Dominion’s tariffs, rules, and classifications (together, the “Tariffs”), which apply to the Freight Charges owed by Robertshaw, including without limitation Plaintiff’s 100 Rules Tariff, which are applicable to and governed Old Dominion’s Transportation Services, including the imposition of liquidated damages for late payment, and were available to Robertshaw upon request pursuant to the Interstate Commerce Act, 49 U.S.C. §14706(c)(1)(B).

11. Among other terms of the Tariffs, Robertshaw agreed that all disputes arising from or related to Old Dominion’s Transportation Services provided by Old Dominion on and after September 1, 2017, would be resolved in Guilford County, North Carolina, as the exclusive jurisdiction and venue for the resolution of such disputes, and Robertshaw consented to jurisdiction in the State of North Carolina.

12. Additionally, for bills of lading for which third-party billing was designated, the Tariffs provide that the shipper, Robertshaw, remains responsible for the freight charges in the event the third-party failed to timely pay the freight charges applicable to those shipments.

13. Specifically, Robertshaw sometimes used the services of third-party logistics agents, including Echo Global Logistics and DSV Road, who acted as payment agents for Robertshaw.

14. Robertshaw may have paid a portion of the Freight Charges owed to Old Dominion for the Transportation Services to these payment agents, but they did not pay Old Dominion.

15. Old Dominion has not released Robertshaw from its obligation to pay Old Dominion the Freight Charges for any Transportation Services for which Robertshaw designated third-party billing, regardless of whether Robertshaw may have remitted payment to the third-party payment agents.

FIRST CLAIM FOR RELIEF

(Breach of Contract)

16. Old Dominion incorporates by reference the allegations contained in the preceding paragraphs of this Complaint.

17. The Bills of Lading constitute contracts between Old Dominion and Robertshaw for the Transportation Services.

18. Old Dominion invoiced Robertshaw for the Freight Charges, but Robertshaw failed to pay Old Dominion the Freight Charges.

19. Robertshaw has therefore breached the parties' agreement by failing to timely pay the Freight Charges.

20. After applying all payments and credits to which Robertshaw is entitled, Hodgson Mill owes Old Dominion the sum of \$164,274.81, all of which Robertshaw has failed to pay despite Old Dominion's demands.

21. As a direct result of Robertshaw's breach of the parties' agreement, Old Dominion is entitled to a judgment against Robertshaw for \$164,274.81, plus pre-judgment and post-judgment interest, costs, and attorney's fees as provided by Old Dominion's Tariffs and by law.

SECOND CLAIM FOR RELIEF
(Quantum Meruit)

22. Old Dominion adopts by reference and incorporates in this Claim for Relief the preceding allegations of this Complaint not inconsistent with this Claim for Relief.

23. Old Dominion provided the Transportation Services to and for the benefit of Robertshaw and at its request.

24. Old Dominion reasonably expected to be paid by Robertshaw for the Transportation Services.

25. With the knowledge that Old Dominion expected to be paid for the Transportation Services, the Transportation Services were accepted by Robertshaw, used and enjoyed by Robertshaw, and Robertshaw benefitted from the Transportation Services.

26. The reasonable value of the Transportation Services is \$164,274.81, after applying all payments and credits to which Robertshaw is entitled.

27. Robertshaw has refused to pay for the Transportation Services despite Old Dominion's demands.

28. It is inequitable for Robertshaw to receive the value of the Transportation Services without paying Old Dominion for them.

29. Old Dominion is therefore entitled to a judgment against Robertshaw in the amount of not less than \$164,274.81, plus prejudgment and post-judgment interest, costs, and attorney's fees as provided by Old Dominion's Tariffs and by law.

Wherefore, Plaintiff Old Dominion Freight Line, Inc. prays to the Court as follows:

1. That it have and recover of Defendant Robertshaw Controls Company and Robertshaw Controls Company, d/b/a Robertshaw Uniline USA, a judgment in the amount of \$164,274.81, plus pre-judgment and post-judgment interest and attorney's fees as provided by Old Dominion Freight Line Inc.'s Tariff and by law;
2. That the costs of this action be taxed to Defendant Robertshaw Controls Company; and
3. For such other and further relief as to the Court seems just and proper.

This the 18 October 2018.

/s/ Andrew S. Lasine
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